

OPTION 6: NOTIFICATION OF INTENTION TO OPT-OUT OF THE SECTION 8 CONTRACT

MHFA will make every effort to maintain the inventory of affordable housing in the State of Minnesota. Owners selecting Option 6 will be made aware of all available alternatives, including Mark-Up-To-Market. If an owner chooses to opt-out and has satisfied all the relevant requirements, MHFA will process the request in an expeditious manner.

The following requirements must be met before an owner may opt-out:

The owner must be eligible to opt-out. This would include the absence of any restrictions placed on the property that are outlined in Chapter 8 of the Section 8 Contract Renewal Policy Handbook.

One year before the Section 8 Contract Termination:

1. The owner must provide an acceptable one-year federal notification to the residents and MHFA. The notice must contain the required language as outlined in Chapter 8 of the Section 8 Renewal Policy Handbook.
2. In addition to the federal notification, the state requires the owner to review Minnesota Statute 471.9997. This requires the owner to submit a statement to the governing body of the local government in which the housing is located regarding the impact of termination on the residents. The statute also identifies the elements that will need to be addressed in the impact statement. A copy of the Impact Statement must be provided to each resident, MHFA, and if the property is located in the metropolitan area, the Metropolitan Council one year before contract termination.

But see *Forest Park II v. Hadley et al* (Case No. 02-2445) (8th Cir., July 17, 2003), a case involving prepayment of a Section 236 mortgage after the end of the twenty-year prepayment prohibition, holding that Minn. Stat. sections 471.9997 and 504B.255 are preempted.

*Although it is not the owner's responsibility to send the above two notices via certified mail, MHFA **strongly** suggests that owners send all legal notices by certified mail to protect the owner's time limitations with the one year opt-out notices. MHFA is not responsible for letters lost during mail handling.

No later than 120 days prior to the expiration of the Section 8 Contract, you must provide MHFA with the following items:

1. Contract Renewal Request Form with Renewal Worksheet for Option Six.
2. The name of each resident receiving Project Based Section 8 Assistance under the contract being terminated with the corresponding unit number information.
3. Owner certification that the aforementioned list is accurate and correct.

This information will make it possible for MHFA to provide funding for enhanced vouchers to the applicable Housing Authority for the residents. In lieu of providing copies of HUD Form 50059 and income consent forms for each resident to the MHFA office, we will request that you have them ready to be copied upon request from the Housing Authority.

Please be reminded that you are required to provide residents with a 90-day notice of any rent increase in connection with the opt-out of the Section 8 Contract. A copy of the notice must also be provided to MHFA.

Please note: MHFA does not intend this to be an all-inclusive list of federal opt-out requirements. Please review the Section 8 Contract Renewal Policy Handbook to gain a full understanding of all requirements.